

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

M.A.C. & ASSOCIATES, LLC,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 3:16-CV-418HTW-LRA
SIEMENS INDUSTRY, INC. and JOHN)	
DOES 1-3.,)	
)	
Defendants,)	
)	
)	

REBUTTAL IN SUPPORT OF MOTION TO AMEND COMPLAINT

COMES NOW Plaintiff, M.A.C. & Associates, LLC., by and through undersigned counsel and files its Rebuttal in Support of its Motion to Amend Complaint and would show unto the court to wit:

1. In January 2013, the City of Jackson, engaged Siemens as general contractor on a project to improve the City’s water and sewer system. This contract was subject to the City’s EBO program.

2. Prior to signing said contract, Siemens represented to the City of Jackson and to potential EBO participants that it would train, mentor and manage the EBO participants so that they would gain the skills require to complete a project of this magnitude of their own.

3. Pursuant to a July 2013 subcontract agreement and to satisfy the City of Jackson’s EBO requirement, Siemens hired M.A.C. & Associates, LLC (“M.A.C.”) to serve as a subcontractor on the project. According to the contract M.A.C. was supposed to have “exclusive control of the manner and means of performing the work in accordance with the requirements of the Subcontract.”

4. Siemens represented to M.A.C. that it had the largest portion of the 58.29% EBO

participation.

5. During negotiations of said contract Siemens made several material misrepresentations to M.A.C. Relying on Siemens' misrepresentation, M.A.C. was fraudulently induced into signing the subcontract with Siemens.

6. Furthermore, after signing said subcontract, Siemens breach the subcontract with M.A.C. by not allowing M.A.C. to have exclusive control over the work concerning the project, which cause M.A.C. substantial damage. Siemens further breach the subcontract with M.A.C. by failing to make payments to M.A.C. for work completed and for wrongfully terminated M.A.C. from the project.

7. On May 31, 2016, Plaintiff filed a lawsuit alleging several state law claims, such as: Fraudulent Misrepresentation, Fraud in the Inducement, Breach of Contract, Breach of the Implied Duty of Good Faith and Fair Dealings, Negligence, Interference with Business Relations, and a Punitive Damage Claim.

8. On November 15, 2015, Siemens filed a Motion for Judgment on the pleadings alleging that several of M.A.C.'s claims should be dismissed.

9. On November 25, Plaintiff filed a Motion to Amend Complaint curing any alleged defects in Plaintiff's Complaint.

10. On December 9, 2016, Defendant responded to Plaintiff's Motion to Amend arguing that Plaintiff's Complaint is still deficient in many areas.

11. However, this is just yet another attempt by Siemens to continue the practice of deception and manipulation.

12. As addressed in Plaintiff's accompanying memorandum ,Plaintiff's Proposed

Amended Complaint is sufficiently pleaded. Thus, Plaintiff's Motion to Amend Complaint should be granted.

Respectfully submitted, this the 23rd of December, 2016

Respectfully submitted,

M.A.C. & Associates, LLC

/s/ Robert L. Gibbs
Robert L. Gibbs

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Certificate of Service

The undersigned hereby certifies that a true copy of the foregoing was duly served upon all known counsel of record, this the 23rd day of December, 2016, and upon all parties registered with the Court's electronic filing system by operation of the Court's EFC system.

This the 23rd day of December, 2016.

/s/ Robert L. Gibbs
Robert L. Gibbs